

### **REMARKS**

Favorable reconsideration of this application is requested in view of the above amendments and in light of the following remarks and discussion.

Claims 1-13, 15-29, and 31-41 remain pending in the application. Claims 1, 3, 7-9, 15, 17, 19, 23-25, 31, 33, and 37-41 are amended. Support for the changes to the claims is self-evident from the originally filed disclosure, including the original claims, and therefore no new matter is added.

In the Final Office Action<sup>1</sup>, claims 1-14, 16-29, and 31-41 are rejected as unpatentable over U.S. Patent No. 4,607,081 to Helmly, Jr. et al. ("Helmly"); and claim 15 is rejected as being unpatentable over Helmly in view of U.S. Patent No. 7,136,787 to Schlessinger et al. ("Schlessinger"). It is requested that the rejections of the claims be withdrawn, and that the claims be allowed, for at least the following reasons.

Amended independent claim 1 recites a method including, among other features, "calculating a standard deviation based on the plurality of payload weights of the one or more pieces of equipment, and determining the second target payload weight . . . based on the standard deviation and a maximum acceptable target payload weight . . . based on the first target payload weight. It is submitted that at least these features are not disclosed, suggested, nor would have been rendered obvious, by Helmly."

Helmly discloses a system and process "to automatically measure the gross weight, load, and length of trucks, such as at refineries, truck terminals, and depots."

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Helmly, Abstract; See also col. 1, ll. 6-8. In Helmly, “a legal weight determining module 160 compares the truck's length, number of axles, and outside tires with preloaded data records and/or tables . . . and determines . . . the appropriate maximum allowable weight (legal limit).” Helmly, col. 7, l. 66 - col. 8, l. 4. “If the truck weighs more during weigh-out than during weigh-in, then a legal weight comparer 168 determines if the actual overall gross weight of the truck as measured by the scale is greater than the maximum allowable weight (legal limit). If yes, [the system indicates] an error message requiring the driver to dump his excess load and restart weigh-out operations.” Helmly, col. 8, ll. 20-28.

Thus, Helmly determines only whether a truck is loaded over the legal limit, and does not “determin[e] a second target payload . . . by . . . calculating a standard deviation based on the plurality of payload weights of the one or more pieces of equipment, and determining the second target payload weight . . . based on the standard deviation and a maximum acceptable target payload weight . . . based on the first target payload weight,” as recited by amended independent claim 1. Rather, Helmly teaches “[i]f his truck's gross weight exceeds the legal maximum authorized weight, then the driver must dump the excess weight into a collection bin, tank, or reservoir and repeat the weigh-out procedure.” Helmly, col. 14, ll. 4-7. Reattempting to load the truck such that its weight is below the legal limit is different than “calculating a standard deviation based on the plurality of payload weights of the one or more pieces of equipment, and determining the second target payload weight . . . based on the standard deviation and a maximum acceptable target payload weight . . . based on the first target payload weight,” as recited by amended independent claim 1. Helmly's scale

does not take into consideration “a plurality of payload weights of the one or more pieces of equipment” in order to “determin[e] the second target payload weight . . . based on the standard deviation and a maximum acceptable target payload weight.” Instead, Helmly’s system is only concerned with the current weight of the truck relative to its legal limit.

Amended independent claim 38 recites a method including, among other things, “determining compliance with the payload standard based on at least one of the number of the plurality of payload weights less than the acceptable payload overload weight and the number of the plurality of payload weights greater than the unacceptable payload overload weight.” As discussed above, Helmly’s scale system fails to take into consideration “a plurality of payload weights of the one or more pieces of equipment.” Thus, Helmly also cannot disclose or suggest at least the claimed determining step of amended independent claim 38.

Amended independent claims 17 and 33 recite features similar to those discussed above with respect to independent claim 1, and are therefore allowable over Helmly for at least reasons similar to those discussed above in connection with independent claim 1. Amended independent claims 40 and 41 recite features similar to those discussed above in connection with independent claim 38, and are therefore allowable over Helmly for at least reasons similar to those discussed above in connection with claim 38. Inasmuch as Schlessinger fails to remedy the deficiencies of Helmly, and the remaining claims depend from one of the independent claims, it is submitted that the remaining claims are allowable.

For at least the foregoing reasons, it is requested that the rejections be withdrawn, and that the pending claims be allowed.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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